IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2006

CORAM:

THE HONOURABLE MR.JUSTICE S.J.MUKHOPADHAYA
AND
THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

W.P.No.30016 of 2003
& W.P.M.P.No.36626 of 2003 & W.V.M.P.No.166 of 2004

1. The Tamil Nadu Foodgrains Merchants
Association Ltd.,
represented by its Honorary Secretary,
No.342, East Masi Street, Madurai-625 001.

2. G.Kaliya Moorthy .. Petitioners

vs.

1. The State of Tamil Nadu,
represented by its
Secretary to Government,
Agricultural Department,
Fort St.George, Chennai-600 009.

2. The Tamil Nadu State Agricultural Marketing Board,
represented by the Commissioner,
Agricultural Department Marketing,
Guindy, Chennai-600 032.

3. The Thanjavur Agricultural Marketing Committee,
rep. by its Secretary,
Thanjavur.

4. The Superintendent,
Agricultural Regulatory Marketing,
Keelakottaiyur, malakavadi (P.O),
Kumbakonam. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, as stated therein.

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For petitioners : Mr.R.Krishnamoorthy, Senior Counsel for M/s.V.Ayyadurai

For respondent-1 & 2 : Mr.P.S.Raman, Addl. Advocate General, assisted by Mr.M.Dhandapani, Addl.G.P.

For respondents 3 & 4 : Mr.D.Krishnakumar

ORDER

(The Order of the Court was made by S.J.Mukhopadhaya,J.)

The writ petition is preferred by the petitioners for issuance of a writ of mandamus, forbearing the respondents from enforcing the provisions of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 and the Rules made thereunder or bye-laws of any Marketing Committee in respect of purchase of any notified agricultural produce effected outside the 'notified market area' and sold inside or outside the market area.

2. Learned Senior Counsel appearing for the petitioners submitted that in many cases, though 'notified area' has been notified under Section 4, but 'notified market area' has not been notified under sub-section (2) to Section 6 of the Act. According to him, the agricultural produce which is not grown or cultivated in the area and are brought from outside the 'notified area' and are sold inside or outside the 'notified market area', therein, the market fee cannot be charged. It was further submitted that in many of the cases, the agricultural produce is brought from area outside the 'notified area', but is neither purchased nor sold in the 'notified market area' and for that, no demand for market fee can be made by the authorities.

3. It appears that the aforesaid facts have already been brought to the notice of the Commissioner of Agricultural Department by the petitioner as back as March/May 2003, but no specific decision has been taken therein and in the absence of any purchase or sale of one or other agricultural produce made by one or other petitioners, within or outside the 'notified market area', it is not possible for this Court to give a finding in one or other way with regard to demand stated to have been made from the second petitioner or any one or other member of the first petitioner-Association. In such circumstances, no relief can be granted as sought for in the present writ petition.

4. However, if no notification has been issued under sub-section (2) to Section 6 of the Act notifying any one or other 'notified market area' and the petitioner-Association or any of its member is in a position to show that particular agricultural produce has neither been purchased nor sold within the 'notified area', and having been brought from outside, has only been exported to some place outside the 'notified area', then in that

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case, the members of the first petitioner/Association may bring the same to the notice of the competent authority and claim for relief as may be entitled to under Section 24 of the Act and/or may pray that he is not entitled to pay the market fee with regard to such transaction. If any such individual application is filed by one or other member of the first petitioner-Association with specific evidence that the purchase or sale was made outside the 'notified area' and that no purchase or sale was made within the 'notified area' / 'notified market area' and is entitled for the benefit under Section 24 of the Act and in such case, the competent authority or the Market Committee concerned will decide the claim by reasoned order, preferably within one month from the date of such representation, after affording an opportunity of hearing to the claimant. On such decision, if it is found that one or other demand notice was wrongly issued, then the authority may recall such demand notice, if made during the pendency of this application.

5. The writ petition is disposed of with the aforesaid observations and directions. The Miscellaneous Petitions are closed. No costs.

cs

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to
to Government of Tamil Nadu
Agricultural Department,
Fort St.George, Chennai-600 009.

2. The Commissioner
Tamil Nadu State Agricultural Marketing Board,
Agricultural Department Marketing,
Guindy, Chennai-600 032.

3. The Secretary
Thanjavur Agricultural Marketing Committee,
Thanjavur.

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4. The Superintendent,
Agricultural Regulatory Marketing,
Keelakottaiyur, malakavadi (P.O),
Kumbakonam.

+ one cc to Mr. O. Krishnakumar, Advocate sr no. 56060
+ one cc to the Government Pleader sr no. 55910

MM(CO)
NM(28.11.2006) W.P.No.30016 of 2003

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